

David K. Byers  
Administrative Director  
Administrative Office of the Courts  
1501 W. Washington, Suite 411  
Phoenix, AZ 85007  
(602) 452-3301  
Projects2@courts.az.gov

**IN THE SUPREME COURT  
STATE OF ARIZONA**

In the Matter of

PETITION TO AMEND RULE 6.1  
ARIZONA RULES OF CRIMINAL  
PROCEDURE

Supreme Court No. R-23-0042

AMENDED REPLY TO  
COMMENT

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, undersigned files an amended reply to the comment from the Senior Lawyer Division Pre-Trial Working Group of the State Bar. This amended reply replaces the reply filed on May 14, 2024.

The Petitioner appreciates the comment by the Senior Lawyer Division and its commitment to implementing the two rules being discussed.

**I. Discussion of Comment**

**A. Rule 4.2 (a) (5)**

The comment urges the readoption of Rule 4.2 (a) (5), Ariz. R. Cr. Pr. Petitioner understands “readoption” to mean permanently adopt what the court adopted on an emergency basis. The emergency rule amendment adopted by this court on December 6, 2023 enacted a clarifying change to Rule 4.2 (a) (5) by removing the affirmative duty of the defendant to request counsel at the initial appearance. The rule as amended

states the magistrate must appoint counsel if the defendant is eligible under Rule 6. The requirements of Rule 6 are then triggered. The Petitioner agrees with the import of the Senior Lawyer Division comment that the emergency rule adopted by this court on December 6 should be permanently adopted.

**B. Rule 6.1 (b) (1)**

The Petitioner proposes repealing and replacing the current Rule 6.1 (b) (1) with language that is more inclusive and clarifying. The rule promulgated by the court on December 6 on an emergency basis does not vary from the rule proposed in the petition. The petitioner agrees with the import of the Senior Lawyer Division comment which urges the court to permanently adopt the emergency rule that was adopted by the court on December 6, 2023.

**II. Conclusion**

Therefore, Petitioner respectfully requests the Court permanently adopt the amendments to Rule 4.2 (a) (5) and Rule 6.1, Az. R. Cr. Pr. enacted on an emergency basis December 6, 2023.

RESPECTFULLY SUBMITTED this \_\_\_ day of May, 2024.

By: \_\_\_\_\_  
David K. Byers  
Administrative Director  
Administrative Office of the Courts  
1501 W. Washington  
Phoenix, AZ 85007  
(602) 452-3301  
Projects2@courts.az.gov